

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

NORTHWEST ADMINISTRATORS, INC.,

Plaintiff,

v.

CLEAN HARBORS INDUSTRIAL
SERVICES, INC., a Delaware
corporation, and EMERALD SERVICES,
INC., a Delaware corporation,

Defendants.

NO.

COMPLAINT TO COMPEL AUDIT

I.

Plaintiff, Northwest Administrators, Inc., is an organization incorporated under the laws of the State of Washington, with its principal place of business in King County, and is the authorized administrative agency for and the assignee of the Washington Teamsters Welfare Trust Fund (hereinafter "Trust").

II.

The Washington Teamsters Welfare Trust Fund is an unincorporated association operating as a Trust Fund pursuant to Section 302 of the Labor

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1 Management Relations Act of 1947, as amended, to provide medical benefits to
2 eligible participants.

3 III.

4 This Court has jurisdiction over the subject matter of this action under
5 Section 502(e)(1) and (f) of the Employee Retirement Income Security Act of 1974
6 ("ERISA"), 29 U.S.C. §1132(e)(1) and (f) and under §301(a) of the Taft-Hartley Act,
7 29 U.S.C. §185(a).
8

9 IV.

10 Venue is proper in this District under Section 502(e)(2) of ERISA, 29 U.S.C.
11 §1132(e)(2), because the Plaintiff Trust Fund is administered in this District.

12 V.

13 Defendants are Delaware corporations.
14

15 VI.

16 Defendants are bound to a collective bargaining agreement with Local 174 of
17 the International Brotherhood of Teamsters (hereinafter "Local"), under which the
18 Defendants are required to promptly and fully report for and pay monthly
19 contributions to the Trust at specific rates for each hour of compensation (including
20 vacations, holidays, overtime and sick leave) said Defendants paid to its employees
21 who were members of the bargaining unit represented by the Local (such
22 bargaining unit members were any of the Defendant's part time or full time
23
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1 employees who performed any work task covered by the Defendants' labor contract
2 with the Local, whether or not those employees ever actually joined the Local).

3
4 VII.

5 Defendants accepted the Trust's Agreement & Declaration Agreement
6 ("Trust Agreement") which provides in part:

7 Each Employer shall promptly furnish to the Trustees on
8 demand any and all records of his Employees,
9 concerning the classification of such Employees, their
10 names, Social Security numbers, amount of wages paid
11 and hours worked and any other payroll records and
12 information that the trustees may require in connection
13 with the administration of the Trust Fund. Each
14 Employer shall also submit in writing to the trustee s at
15 such regular periodic intervals and in such form as the
16 Trustees may establish such of the above data as may
17 be requested by the trustees. The Trustees or their
18 authorized representatives may examine the payroll
19 books and records of each Employer whenever such
20 examination is deemed necessary or advisable by the
21 Trustees in connection with the proper administration of
22 the Trust Fund. Upon request from the Trustees, each
23 Employer shall deliver in person or by such class of mail
24 as the Trustees shall determine to each of his
25 employees, and each Union shall deliver to each of its
26 members, who is a participant or beneficiary hereunder,
any notice or document which the Trustees are required
by law to distribute to such participant or beneficiaries.

VIII.

21 The Trustees of the Washington Teamsters Welfare Trust Fund deem it both
22 necessary and advisable to the proper administration of the Trust that their
23 authorized representatives examine the Defendant's books and records for the
24

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1 inclusive period January 1, 2011 through August 31, 2017 to determine if the
2 Defendant previously reported for and paid to the Trust all of the amounts due for
3 the Defendant's employment of members of the bargaining unit represented by
4 Teamsters Local 174 for said period.

5
6 IX.

7 Despite notification to the Defendants of the Trustees' desire to conduct an
8 audit for the period January 1, 2011 through August 31, 2017, and demands made
9 upon the Defendants on the Trust's behalf for access to Defendants' records for an
10 examination of them for that period, to date the Defendants have failed and refused
11 to make their records available for the thorough examination the Trustees deem
12 necessary and advisable to the proper administration of the Trust.

13 WHEREFORE, plaintiff, on the Trust's behalf, prays the court as follows:

14
15 1. That the Court enter an Order Compelling Audit under which
16 Defendants shall be directed by the Court, within a specified time, to make available
17 to the authorized representatives of the Trustees of the Trust for the period January
18 1, 2011 through August 31, 2017, the records listed in Exhibit A attached hereto.

19 2. Afford to the authorized representatives of the Trustees of the Trust
20 both ample time and opportunity to examine all such materials of Defendants at
21 such time and at such place as shall be convenient to the Trustees' authorized
22 representatives.

23
24 3. For judgment against the Defendants for:

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- A. All of the Plaintiff's attorney's fees incurred in gaining auditor access to Defendants' records;
 - B. All of the Plaintiff's costs incurred in gaining auditor access to Defendants' records, and
 - C. For such other and further relief as the Court may deem just and equitable.

DATED this 5th day of January, 2018.

REID, McCARTHY, BALLEW & LEAHY,
L.L.P.



Russell J. Reid, WSBA #2560
Attorney for Plaintiff

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